

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

1

Court Minutes

November 26, 2007

- C049394 THE PEOPLE v. POPE (Not for Publication)**
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Butz, J.
- C050545 THE PEOPLE v. FARIAS (Not for Publication)**
THE PEOPLE v. SANCHEZ
The judgments are reversed.
DAVIS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C052029 THE PEOPLE v. BARKSDALE (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We Concur: Blease, Acting P.J.
Butz, J.
- C054823 THE PEOPLE v. SCHY (Not for Publication)**
The judgment is modified to impose a \$17 restitution fine As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment accordingly and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
DAVIS, J.
I concur: Scotland, P.J.
I respectfully dissent:
Cantil-Sakauye, J.
- C053059 FARRAR v. BURLINGTON NORTHERN (Not for Publication)**
SANTA FE RAILWAY COMPANY
The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. Costs on appeal are awarded to appellant.
CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Butz, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

2

Court Minutes

November 26, 2007, continued

C054932 In re SCOTT E. et al.; BUTTE COUNTY (Not for Publication)
DEPARTMENT OF EMPLOYMENT AND
SOCIAL SERVICES v. SUSAN M.

The orders are affirmed.

SCOTLAND, P.J.

We Concur: Blease, J.

Davis, J.

C044703 THE PEOPLE v. ROBINSON
BY THE COURT:

Respondent's request to publish Parts II and III of the opinion filed on
October 26, 2007, is denied.

BLEASE, Acting P.J.

C052770 PHELPS et al. v. STATE WATER
RESOURCES CONTROL BOARD et al.;
DEPARTMENT OF WATER RESOURCES et al.
BY THE COURT:

The opinion in the above-entitled matter filed on October 29, 2007, was
not certified for publication in the Official Reports. For good cause it now
appears that the opinion should be published in the Office Reports and it is so
ordered.

NICHOLSON, Acting P.J.

Hull, J.

Cantil-Sakauye, J.

C052770 PHELPS et al. v. STATE WATER
RESOURCES CONTROL BOARD et al.;
DEPARTMENT OF WATER RESOURCES et al.
BY THE COURT:

Respondents State Water Resources Control Board and Department of
Water Resources' requests to publish the opinion filed on October 29, 2007, are
denied as moot.

CANTIL-SAKAUYE, Acting P.J.

November 27, 2007

C050261 THE PEOPLE v. BUITRAGO (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Scotland, P.J.

Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

Court Minutes

November 27, 2007, continued

- C051150 THE PEOPLE v. MURDOCK (Not for Publication)**
The judgment is reversed and the matter is remanded to the trial court for its in camera review of Detective Kirtlan's personnel records. If the court finds no discoverable information, then the court must reinstate the judgment and sentence which is affirmed. If the court finds relevant discoverable information, then the defendant must be given an opportunity to determine in information would have led to any relevant admissible evidence to present at trial. If defendant demonstrates prejudice, then the trial court must order a new trial.
MORRISON, J.
We Concur: Blease, Acting P.J.
 Davis, J.
- C051527 THE PEOPLE v. KAIHAU (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Scotland, P.J.
 Robie, J.
- C052313 THE PEOPLE v. GUYTON (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Davis, Acting P.J.
 Butz, J.
- C054317 THE PEOPLE v. HUNTER (Not for Publication)**
The superior court is directed to amend the abstract of judgment to strike the no contact order. The superior court is further directed to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.
NICHOLSON, Acting P.J.
We Concur: Hull, J.
 Cantil-Sakauye, J.
- C055341 THE PEOPLE v. MAYHEW (Not for Publication)**
The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that defendant's custody credits are calculated in accordance with section 2933.1, not section 4019. The trial court is further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
BLEASE, J.
We Concur: Scotland, P.J.
 Davis, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

4

Court Minutes

November 27, 2007, continued

C053900 In re MATTHEW B.; SACRAMENTO (Not for Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. AILEEN B.

The order of the juvenile court is affirmed.

HULL, J.

We Concur: Sims, Acting P.J.

Butz, J.

C055137 In re DILLON S. et al.; SACRAMENTO (Not for Publication)
COUNTY DEPARTMENT OF HEALTH
& HUMAN SERVICES v. YOLANDA S.

The order terminating parental rights is vacated, and the matter is remanded to the juvenile court with directions to order the juvenile court and DHHS to make inquiry pursuant to ICWA If ... a tribe determines that the minors are Indian children as defined by ICWA, the juvenile court is ordered to conduct a new ... hearing If, on the other hand, no response is received or the tribes determine the minors are not Indian children, then all previous findings and orders shall be reinstated.

BLEASE, J.

We Concur: Scotland, P.J.

Davis, J.

C054130 THE PEOPLE v. YOUNG
BY THE COURT:

It is ordered that the opinion filed in this case on November 13, 2007, which was certified for partial publication be modified These modifications to the published portion of this opinion do not effect a change in the judgment. The petition for rehearing filed by defendant is denied.

SIMS, Acting P.J.

Hull, J.

Butz, J.

November 28, 2007

C050639 THE PEOPLE v. KAO (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We Concur: Blease, J.

Morrison, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

5

Court Minutes

November 28, 2007, continued

- C053974 THE PEOPLE v. GLASER (Not for Publication)**
The judgment and sentence are affirmed.
SIMS, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.
- C054749 THE PEOPLE v. JOHNSON (Not for Publication)**
The judgments (probation orders) -- and, to the extent defendant can be deemed to have appealed from it, the postjudgment order denying the defendant's Marsden motion -- are affirmed.
ROBIE, J.
We Concur: Davis, Acting P.J.
Butz, J.
- C054988 THE PEOPLE v. HARRIS (Not for Publication)**
The sentence on count two is modified to the low term of two years plus 10 years for the firearm enhancement, to be served concurrent with count one. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment, omitting the count one "X" for "consecutive full term" and specifying restitution fines of \$2,400, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
BLEASE, Acting P.J.
We Concur: Davis, J.
Nicholson, J.
- C056482 THE PEOPLE v. HODGE (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting a restitution fine and parole revocation fine of "\$1,000" each and to forward a copy of the amended abstract of judgment to the California Department of Corrections and Rehabilitation.
ROBIE, J.
We Concur: Davis, Acting P.J.
Butz, J.
- C049695 HERNANDEZ et al. v. C. DEGROOT (Not for Publication)**
& SONS
- C051254 HERNANDEZ v. C. DEGROOT & SONS**
The judgment is affirmed. The order denying plaintiffs' motion for sanctions ... is affirmed. Plaintiffs are awarded their costs on appeal in case No. C049695. Defendant is awarded its costs on appeal in case No. C051254.
BUTZ, J.
We Concur: Davis, Acting P.J.
Nicholson, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

6

Court Minutes

November 28, 2007, continued

**C050885 STOCKTON CITIZENS FOR SENSIBLE (Certified for Publication)
PLANNING et al. v. CITY OF STOCKTON
et al.; A.G. SPANOS CONSTRUCTION,
INC. et al.**

... The decision of the trial court granting a peremptory writ of mandate barring all approvals of the development of the Wal-Mart superstore is affirmed. The plaintiffs are granted their costs on appeal.

BLEASE, Acting P.J.

I Concur: Sims, J.

I respectfully dissent:

Nicholson, J.

**C055903 In re K.W.; YOLO COUNTY (Not for Publication)
DEPARTMENT OF EMPLOYMENT AND
SOCIAL SERVICES v. S.L.**

The order terminating parental rights is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Hull, J.

**C056343 In re A.M.; SAN JOAQUIN COUNTY (Not for Publication)
HUMAN SERVICES AGENCY v. W.M.**

Amended

The order terminating parental rights is vacated, and the matter is remanded to the juvenile court with direction to make an ICWA inquiry and, if necessary, to comply with ICWA's notice provisions. If ... a tribe determines that the minor is an Indian child ... the juvenile court is ordered to conduct a new Welfare and Institutions Code section 366.26 hearing in conformity with all provisions of ICWA. If, on the other hand, no response is received or the tribes determine the minor is not an Indian child, then all previous findings and orders shall be reinstated.

SCOTLAND, P.J.

We Concur: Blease, J.

Davis, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

7

Court Minutes

November 29, 2007

- C050512 THE PEOPLE v. WILKERSON (Not for Publication)**
The sentence on court seven is stayed. In addition, the abstract is to be correction. In addition, the abstract is to be corrected in accordance with part V of this opinion. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation.
NICHOLSON, Acting P.J.
We Concur: Hull, J.
Cantil-Sakauye, J.
- C050817 THE PEOPLE v. SALAZAR (Not for Publication)**
The conviction is affirmed, the imposition of the upper term sentence is reversed, and the case is remanded to the trial court for resentencing in accordance with Cunningham and Sandoval.
SCOTLAND, P.J.
We Concur: Raye, J.
Robie, J.
- C052041 THE PEOPLE v. HAZLE (Certified for Publication)**
The judgment is reversed
MORRISON, J.
We Concur: Sims, Acting P.J.
Robie, J.
- C052761 THE PEOPLE v. SULLIVAN et al. (Not for Publication)**
The judgment as to defendant St. Andrew is modified to reflect that he is entitled to 211 days of actual credit plus 104 days of conduct credit for a total of 315 days of presentence credit. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment to reflect this change to ... presentence credit and to forward a copy of the amended abstract of judgment to the California Department of Corrections and Rehabilitation.
The judgment as to defendant Sullivan is modified to reflect a stay on the misdemeanor battery conviction ... and a deletion of the restitution fine of \$100 for misdemeanor battery. As modified the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment to reflect these changes to ... and to forward a copy of the amended abstract of judgment to the California Department of Corrections and Rehabilitation.
ROBIE, J.
We Concur: Davis, Acting P.J.
Butz, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

8

Court Minutes

November 29, 2007, continued

- C052788 THE PEOPLE v. RODRIGUEZ (Not for Publication)**
The convictions for conspiracy, criminal gang participation, and shooting at an inhabited dwelling are reversed; the other convictions are affirmed. We remand the matter for resentencing, at which time the trial court will dismiss the reversed counts.
DAVIS, J.
I Concur: Hull, J.
I respectfully dissent:
Scotland, P.J.
- C052940 THE PEOPLE v. COPAS (Not for Publication)**
The judgment is vacated and the cause is vacated and the cause is remanded for the trial court to set forth in writing in the minutes its reasons for the order striking the strikes. If the trial court upon reflection is unable to articulate proper reasons in writing for striking the strikes, defendant is to be accorded the opportunity to withdraw his plea and proceed to trial.
HULL, J.
We Concur: Sims, Acting P.J.
Robie, J.
- C053531 THE PEOPLE v. BUCKNER (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Hull, J.
- C055636 THE PEOPLE v. RASMUSSEN (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Davis, J.

November 30, 2007

- C048241 THE PEOPLE v. MURPHY (Not for Publication)**
The order recalling the remittitur is vacated; the remittitur shall reissue on our decision affirming the judgment.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

9

Court Minutes

November 30, 2007, continued

- C050586 THE PEOPLE v. NORMAN (Certified for Partial Publication)**
The judgment is reversed.
SIMS, Acting P.J.
We Concur: Hull, J.
Butz, J.
- C051473 THE PEOPLE v. HER et al. (Not for Publication)**
Defendant Kinson Her's sentence for murder ... is modified to reflect a sentence of 25 years to life with the possibility of parole. The trial court is directed to amend ... abstract of judgment in accordance with this opinion and is further directed to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgments of codefendants Kinson Her and Houa Lao are affirmed.
BUTZ, J.
We Concur: Sims, Acting P.J.
Nicholson, J.
- C055243 THE PEOPLE v. LOPEZ (Not for Publication)**
The judgment is affirmed.
HULL, J.
I concur: Blease, Acting P.J.
I concur in the result:
Nicholson, J.
- C055400 THE PEOPLE v. NILES (Not for Publication)**
Defendant's convictions are affirmed; however, the sentence is vacated and the matter is remanded to the trial court for resentencing consistent with this opinion.
ROBIE, Acting P.J.
We Concur: Scotland, P.J.
Davis, J.
- C054898 In re M. -I. D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SOCIAL SERVICES v. D.D. (Not for Publication)**
The orders of the juvenile court are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Raye, Acting P.J.
Hull, J.
- C052999 MEAD v. WILLIAMS**
BY THE COURT:
Appellant's petition for rehearing is denied.
RAYE, Acting P.J.